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*In Propria Persona*

UNITED STATES DISTRICT COURT FOR  
THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

**TODD R. G. HILL, et al,**

**Plaintiffs**

**vs.**

**THE BOARD OF DIRECTORS,  
OFFICERS AND AGENTS AND  
INDIVIDUALS OF THE PEOPLES  
COLLEGE OF LAW, et al.,**

**Defendants.**

CIVIL ACTION NO. 2:23-cv-01298-JLS-BFM

**The Hon. Josephine L. Staton**  
Courtroom 8A, 8th Floor

**Magistrate Judge Brianna Fuller Mircheff**  
Courtroom 780, 7th Floor

**PLAINTIFF'S SECOND NOTICE OF  
CONSTRUCTIVE DENIAL AND PENDING  
REQUESTS FOR JUDICIAL NOTICE**

**NO ORAL ARGUMENT REQUESTED**

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**PLAINTIFF'S SECOND NOTICE OF CONSTRUCTIVE DENIAL AND PENDING  
REQUESTS FOR JUDICIAL NOTICE**

CASE 2:23-CV-01298-JLS-BFM

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**PLAINTIFF’S SECOND NOTICE OF CONSTRUCTIVE DENIAL AND PENDING REQUESTS FOR JUDICIAL NOTICE**

**PLAINTIFF’S SECOND NOTICE OF CONSTRUCTIVE DENIAL AND PENDING  
REQUESTS FOR JUDICIAL NOTICE**

TO THE HONORABLE COURT AND ALL PARTIES OF RECORD:

Plaintiff respectfully submits this notice to clarify the status of multiple filings that remain pending without resolution, despite the Court’s prior representation in Docket 291 (issued May 6, 2025) that these submissions had been received and “will be considered as warranted” and its subsequent dispositive ruling denying amendment under Fed. R. Civ. P. 59(e) at Docket 312 (issued May 27, 2025).

When a court fails to affirmatively rule on properly docketed and substantively relevant requests, particularly those that precede or accompany dispositive rulings, it creates a *constructive denial*: an effective rejection by omission. Such silence functionally deprives the requesting party of procedural clarity and appellate certainty, denying full adjudication on the merits while preserving the appearance of procedural propriety. In this context, constructive denial not only impairs the evidentiary integrity of the record but invites reversible error under established Ninth Circuit precedent.

**I. OUTSTANDING REQUESTS FOR JUDICIAL NOTICE**

As of June 11, 2025, the following requests remain unresolved:

- a. Docket 276: PLAINTIFF’S NOTICE OF SUPPLEMENTAL REQUEST FOR JUDICIAL NOTICE REGARDING DEFENDANT SPIRO’S REPRESENTATIONS OF GOVERNANCE AUTHORITY AND FACTUAL KNOWLEDGE (filed 4/23/2025)

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- b. Docket 279: PLAINTIFF’S NOTICE OF ERRATA RE: PLAINTIFF’S NOTICE OF CLARIFICATION AND SUPPLEMENTAL REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DOCKET 272 (filed 4/25/2025)
- c. Docket 280: PLAINTIFF’S OPPOSITION TO DEFENDANT SPIRO’S REQUEST FOR JUDICIAL NOTICE (DKT. 278) AND NOTICE OF REQUEST FOR JUDICIAL NOTICE REGARDING DEFENDANT SPIRO’S LACK OF GOVERNANCE AUTHORITY (filed 4/28/2025)
- d. Docket 298: PLAINTIFF’S REQUEST FOR JUDICIAL NOTICE AND SUPPLEMENTAL BRIEF IN SUPPORT OF RULE 59(e) MOTION TO ALTER OR AMEND JUDGMENT (filed 5/9/2025)
- e. Docket 301: PARTIAL OPPOSITION AND NOTICE OF QUALIFIED RESPONSE TO DEFENDANT SPIRO’S REQUEST FOR JUDICIAL NOTICE (DKT. 296); SUPPLEMENTAL REQUEST FOR JUDICIAL NOTICE (filed 5/11/2025)

Plaintiff notes that these filings directly implicate the factual integrity of Defendant’s representations to the Court and are essential to ensuring a complete record. Their continued omission from adjudication, while dispositive and procedural rulings continue to be issued, supports an appearance of selective consideration inconsistent with impartial judicial process.

Accordingly, Plaintiff respectfully requests an update or ruling on these submissions or, in the alternative, that the Court clarify its intent regarding whether these filings are being considered as part of the record.

## **II. LEGAL STANDARD**

Judicial notice may be taken of facts “not subject to reasonable dispute” when they are “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably

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### **PLAINTIFF’S SECOND NOTICE OF CONSTRUCTIVE DENIAL AND PENDING REQUESTS FOR JUDICIAL NOTICE**

1 be questioned.” Fed. R. Evid. 201(b)(2). Public records and reports published by government  
2 agencies, including licensing authorities, are appropriate for judicial notice. (*Khoja v. Orexigen*  
3 *Therapeutics, Inc.*, 899 F.3d 988, 999 (9th Cir. 2018)).

4  
5 Under Rule 59(e), a district court may alter or amend a judgment if presented with:

- 6 a. Newly discovered or previously unavailable evidence;  
7  
8 b. A clear error of law or fact;  
9  
10 c. The need to prevent manifest injustice. (*Allstate Ins. Co. v. Herron*, 634 F.3d 1101,  
11 1111 (9th Cir. 2011); *School Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir.  
12 1993)).

13 The documents identified above meet this standard. They were introduced both prior to and  
14 after the Court’s dispositive judgment, are directly material to Plaintiff’s allegations, and confirm that  
15 the State Bar continues to administer policies with known disparate impacts against racial minorities  
16 and students from non-ABA law schools. The documents are material and directly relevant to  
17 assessment of Plaintiff’s allegations in the operative Fourth Amended Complaint and proposed Fifth  
18 Amended Complaint under current consideration.

19  
20 Moreover, several of the pending judicial notice filings, specifically Dkts. 276, 280, and 301,  
21 contain evidence that directly rebuts factual representations made by Defendants in support of their  
22 dispositive motion(s). Failure to resolve these filings prior to issuing or reaffirming judgment  
23 implicates core principles of procedural due process and undermines the integrity of any dispositive  
24 ruling that purports to rely on an accurate record.  
25  
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**PLAINTIFF’S SECOND NOTICE OF CONSTRUCTIVE DENIAL AND PENDING  
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1 The Ninth Circuit has consistently held that a district court abuses its discretion when it fails  
2 to consider evidence or requests properly submitted before judgment, particularly when those  
3 submissions bear directly on the factual or legal issues underlying the claims or defenses at issue. “A  
4 district court abuses its discretion when it bases its ruling on an erroneous view of the law or on  
5 a clearly erroneous assessment of the evidence.” *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384,  
6 405 (1990) (“A district court abuses its discretion when it bases its decision on an erroneous view of  
7 the law or a clearly erroneous assessment of the facts.”); see also *Lee v. City of Los Angeles*, 250  
8 F.3d 668, 689 (9th Cir. 2001) (reversing dismissal where the district court took judicial notice of  
9 public records but improperly relied on them for the truth of disputed facts).

10 Critically, a court may not ignore properly filed judicial notice requests or factual materials  
11 that, if credited, would materially alter the adjudication of the parties' rights. Motions to dismiss  
12 under Rule 12(b)(6) are generally confined to the four corners of the complaint. When a court  
13 considers evidence outside the pleadings, it must ordinarily convert the motion into one for summary  
14 judgment under Rule 56 and afford the non-moving party an opportunity to respond. *See Fed. R. Civ.*  
15 *P. 12(d); Parrino v. FHP, Inc.*, 146 F.3d 699, 706 n.4 (9th Cir. 1998). There is a narrow exception: a  
16 district court may consider documents attached to the complaint, documents incorporated by  
17 reference, or matters subject to judicial notice, without triggering conversion. *United States v.*  
18 *Ritchie*, 342 F.3d 903, 907–08 (9th Cir. 2003).

19 However, where a court considers matters outside the pleadings that are not appropriately  
20 subject to judicial notice, and does not expressly exclude them, it must treat the motion as one for  
21

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22 **PLAINTIFF’S SECOND NOTICE OF CONSTRUCTIVE DENIAL AND PENDING**  
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1 summary judgment. *See Whittlestone, Inc. v. Handi-Craft Co.*, 618 F.3d 970, 974 n.1 (9th Cir. 2010);  
2 Fed. R. Civ. P. 12(d). To do otherwise risks undermining Rule 12’s procedural safeguards and  
3 prejudices the plaintiff’s right to fair adjudication. Where, as here, a plaintiff properly submits  
4 judicially noticeable materials, particularly those that rebut contested factual assertions or clarify  
5 governing institutional relationships, refusal to consider them or selective exclusion without proper  
6 conversion constitutes reversible error.  
7

8  
9 Failure to adequately engage and timely address such materials not only compromises the  
10 factual record but deprives the moving party of a full and fair adjudication under Rule 59(e) and  
11 60(b).  
12

13 Accordingly, the Court has both a discretionary and procedural duty to rule on the above-  
14 referenced filings, each of which constitutes part of the evidentiary predicate for Plaintiff’s operative  
15 allegations and ongoing Rule 59(e) and Rule 60(b) rights. To further defer or disregard them entirely  
16 would not only deprive Plaintiff of a full and fair opportunity to be heard, but would also risk  
17 institutional error reviewable on appeal.  
18

19  
20 **III. PROCEDURAL CONTEXT AND OMISSION OF PENDING JUDICIAL NOTICE**  
21 **REQUESTS**  
22

23 Despite the Court’s statement in its May 6, 2025 Order (Dkt. 291) that it would consider all  
24 submissions identified in Plaintiff’s Request for Administrative Update (Dkt. 284) “as warranted,”  
25 there is no reference in Docket 312 to Plaintiff’s Supplemental Requests for Judicial Notice filed on  
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27 **PLAINTIFF’S SECOND NOTICE OF CONSTRUCTIVE DENIAL AND PENDING**  
28 **REQUESTS FOR JUDICIAL NOTICE**

1 April 23, 25, and 28, 2025 (Dkts. 276, 279, 280). These filings, timely submitted and ultimately  
2 docketed, contain official records and declarations bearing directly on Plaintiff's claims of improper  
3 governance, factual misrepresentations by Defendants, including Defendant Spiro, and new  
4 documentation confirming the State Bar's continued oversight posture regarding non-ABA law  
5 schools. Their omission raises serious questions about whether relevant evidence was improperly  
6 excluded or overlooked in the denial of reconsideration.  
7

8  
9 In *Lee v. City of Los Angeles*, 250 F.3d 668, 688–89 (9th Cir. 2001), the Ninth Circuit held that it  
10 is an abuse of discretion for a district court to disregard matters of judicial notice when resolving  
11 dispositive motions. Notably, the present Court did not address whether it evaluated these requests  
12 before reaffirming dismissals that, under Federal Rule of Civil Procedure 12(b)(6), should not rest on  
13 omitted or selectively evaluated evidence.  
14

15 Plaintiff raises this now not merely to preserve the record, but to preclude recurrence of  
16 procedural deficiencies that may otherwise necessitate appellate correction.  
17

#### 18 **IV. PRESERVATION OF RULE 59(E) AND RULE 60(B) RIGHTS**

19 The Plaintiff preserves all rights under Rule 59(e) to amend the judgment on grounds of newly  
20 discovered evidence, clear legal error, or the need to prevent manifest injustice (*Allstate Ins. Co. v.*  
21 *Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011)). Additionally, Plaintiff preserves rights under Fed. R.  
22 Civ. P. 60(b), particularly subsections (1), (2), and (6), based on the Court's failure to acknowledge  
23 dispositive evidence properly submitted before judgment was reaffirmed.  
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### 27 **PLAINTIFF'S SECOND NOTICE OF CONSTRUCTIVE DENIAL AND PENDING** 28 **REQUESTS FOR JUDICIAL NOTICE**



1 In particular, the failure to consider Dockets 276, 279, and 280 constitutes either mistake,  
2 inadvertence, or excusable neglect under Rule 60(b)(1); newly discovered evidence under Rule  
3 60(b)(2); and a compelling justification under the catch-all equity provision of Rule 60(b)(6),  
4 especially where the unacknowledged evidence contradicts the Court's assumption that Plaintiff had  
5 not plausibly alleged intentional discrimination or supervisory awareness.  
6

7  
8 Here, Plaintiff asserts that delayed disclosure, untimely review or record unavailability impaired  
9 the Court's ability to render a judgment based on a complete evidentiary record. Judicial review  
10 based on an incomplete administrative record constitutes clear error under Rule 59(e). (*See Metcalf v.*  
11 *Daley*, 214 F.3d 1135 (9th Cir. 2000), where the court emphasized the necessity of objective  
12 evaluation in administrative decision-making processes.) Because the Court facially appears to have  
13 failed to review or disregarded available submissions confirming core factual allegations previously  
14 dismissed as speculative, reconsideration is not only warranted it is necessary to preserve procedural  
15 integrity.  
16

17  
18 Courts in the Ninth Circuit have consistently held that where material evidence is submitted and  
19 not considered due to docketing irregularities or oversight, relief is warranted to prevent manifest  
20 injustice. See *Allstate Ins. Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011); *School Dist. No. 1J v.*  
21 *ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993).  
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27 **PLAINTIFF'S SECOND NOTICE OF CONSTRUCTIVE DENIAL AND PENDING**  
28 **REQUESTS FOR JUDICIAL NOTICE**

1 Notably, without making any allegation of impropriety, Plaintiff respectfully reiterates that  
2 material filings in Docket 290, submitted via EDSS on April 22, 2025, supported by confirmed  
3 tracking numbers, remained undocketed at the time the Court issued a dispositive ruling.  
4

5 Regardless of subsequent docket activity or administrative explanation, the procedural  
6 significance of these submissions lies in their timely transmission and substantive relevance to  
7 pending motions.  
8

9 Plaintiff expressly preserves all procedural objections arising from adjudication based on an  
10 incomplete record, including any attempt, formal or implied, to retroactively validate dispositive  
11 rulings without timely consideration of the submissions referenced herein.  
12

13  
14 **V. FAILURE TO ADDRESS THIS EVIDENCE RISKS FORECLOSING**  
15 **APPELLATE REVIEW ON AN INCOMPLETE RECORD**

16 Should the Court decline to take judicial notice of the identified materials, many of which are  
17 public records and government-issued reports, it risks entrenching a procedurally incomplete record  
18 that materially prejudices Plaintiff's rights on appeal. As the Ninth Circuit has consistently  
19 recognized, dispositive rulings made without full consideration of judicially noticeable facts or  
20 properly submitted evidence can constitute reversible error. (*Lee v. City of Los Angeles*, 250 F.3d  
21 668, 688–89 (9th Cir. 2001); *Jones v. Blanas*, 393 F.3d 918, 927 (9th Cir. 2004), insofar as it  
22 emphasizes the importance of considering pro se evidentiary submissions).  
23

24 Failure to address these materials not only undermines the factual integrity of this Court's  
25 rulings, but also risks insulating procedural irregularities from meaningful appellate scrutiny,  
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**PLAINTIFF'S SECOND NOTICE OF CONSTRUCTIVE DENIAL AND PENDING**  
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1 particularly where, as here, the record reflects repeated delays in docketing and supports the  
2 appearance of selective attention to FRE 201 requests. Plaintiff respectfully submits that preserving  
3 the integrity of the judicial process requires the Court to consider the full evidentiary record now,  
4 rather than forcing appellate correction later.  
5

6 In *Lee v. City of Los Angeles*, 250 F.3d 668, 688–89 (9th Cir. 2001), the Ninth Circuit made  
7 clear that it is an abuse of discretion for a district court to disregard matters of judicial notice when  
8 resolving Rule 12(b)(6) motions. This principle is reaffirmed in *Khoja v. Orexigen Therapeutics, Inc.*,  
9 899 F.3d 988, 999 (9th Cir. 2018), which emphasizes the importance of evaluating judicially  
10 noticeable documents in their entirety and cautions against cherry-picking. The failure to address  
11 such materials, particularly when advanced in pre or post-judgment briefing, risks both factual error  
12 and appellate insulation of flawed rulings.  
13  
14

## 15 16 VI. CONCLUSION

17 The Court’s failure to expressly consider Plaintiff’s pending requests for judicial notice,  
18 particularly those filed before or alongside dispositive rulings, raises serious procedural and  
19 constitutional concerns.  
20

21 These materials are directly relevant to Plaintiff’s claims and satisfy the standards of Federal Rule  
22 of Evidence 201 and Rules 59(e) and 60(b). Their omission from the Court’s analysis not only risks  
23 an incomplete appellate record but undermines confidence in the integrity of the adjudicative process.  
24  
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## 27 PLAINTIFF’S SECOND NOTICE OF CONSTRUCTIVE DENIAL AND PENDING 28 REQUESTS FOR JUDICIAL NOTICE

1 When a court does not affirmatively resolve properly submitted and docketed requests tied to  
2 dispositive outcomes, it effectuates a constructive denial, silently foreclosing consideration while  
3 avoiding the procedural clarity required for meaningful review. This omission not only prejudices  
4 Plaintiff but creates uncertainty as to whether key evidence was evaluated or simply bypassed.  
5

6 Accordingly, the Plaintiff respectfully renews his request that the Court take judicial notice of the  
7 submitted materials, reconsider, as warranted, any rulings affected by their omission, and preserve a  
8 full and reviewable record in accordance with governing law and principles of fundamental fairness.  
9 In the alternative, Plaintiff requests clarification as to whether these materials were reviewed and  
10 incorporated into the Court's prior rulings.  
11

12 Respectfully submitted,  
13

14 Dated: June 11, 2025  
15

16   
17  
18  
19

20 Todd R. G. Hill  
21 Plaintiff, Pro Se

22 **STATEMENT OF COMPLIANCE WITH LOCAL RULE 11-6.1**  
23

24 The undersigned party certifies that this brief contains 2,215 words, which complies with the 7,000-  
25 word limit of L.R. 11-6.1.

26 Respectfully submitted,  
27

28 **PLAINTIFF'S SECOND NOTICE OF CONSTRUCTIVE DENIAL AND PENDING  
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June 11, 2025

Todd R.G. Hill

Plaintiff, in Propria Persona

**Plaintiff's Proof of Service**

This section confirms that all necessary documents will be properly served pursuant to L.R. 5-3.2.1 Service. This document will be/has been electronically filed. The electronic filing of a document causes a "Notice of Electronic Filing" ("NEF") to be automatically generated by the CM/ECF System and sent by e-mail to: (1) all attorneys who have appeared in the case in this Court and (2) all pro se parties who have been granted leave to file documents electronically in the case pursuant to L.R. 5-4.1.1 or who have appeared in the case and are registered to receive service through the CM/ECF System pursuant to L.R. 5-3.2.2. Unless service is governed by Fed. R. Civ. P. 4 or L.R. 79-5.3, service with this electronic NEF will constitute service pursuant to the Federal Rules of Civil Procedure, and the NEF itself will constitute proof of service for individuals so served.

Respectfully submitted,



June 11, 2025

Todd R.G. Hill

Plaintiff, in Propria Persona

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**PLAINTIFF'S SECOND NOTICE OF CONSTRUCTIVE DENIAL AND PENDING  
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